

Court of Appeals, State of Michigan

ORDER

Marie Penczak v Gary Oliver

Docket No. 257174

LC No. 00-009650-DO

Helene N. White
Presiding Judge

Michael J. Talbot

Kurtis T. Wilder
Judges

The Court orders that the motion to file a late answer is GRANTED.

The Court further orders that, pursuant to MCR 7.205(D)(2), the July 16, 2004, order of the Wayne County Circuit Court hereby is REVERSED. Without ruling on the question of jurisdiction given the absence of a pending motion in the circuit court, the Court opines that the discovery sought by defendant was overbroad. Upon remand, should defendant advance a new motion to modify spousal support along with a motion regarding discovery, the motions should contain articulated reasons defendant believes a modification is necessary including information regarding his own income and expenses, and why he believes that, taking into account the information already in his possession regarding plaintiff's income, discovery will show that plaintiff's expenses have changed to such an extent as to demonstrate a change of circumstances warranting a modification of spousal support. The motions should address substantive matters and should not be repetitive of defendant's previously-filed motions. The circuit court may limit the scope of such a discovery motion if necessary. See MCR 2.302(C).

Further, the record before this Court reflects that plaintiff submitted discovery responses addressing her income in accordance with the order issued by the circuit court on April 30, 2004. Where plaintiff fulfilled the terms of the written order, a sanction of \$500 in attorney fees is not appropriate. See *Dean v Tucker*, 182 Mich App 27, 32-33; 451 NW2d 571 (1990). The case is REMANDED to the circuit court for further proceedings consistent with this order.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 12 2005

Date

Sandra Schultz Mengel
Chief Clerk